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OF COUNSEL  
URBAN A. LESTER

March 28, 2002

RECORDATION NO. 23837-A FILED

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

MAR 28 '02 3-34 PM

**SURFACE TRANSPORTATION BOARD**

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Assignment and Assumption Agreement, dated as of March 28, 2002, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Railroad Equipment Lease Agreement which was previously filed with the Board under Recordation Number 23837.

The names and addresses of the parties to the enclosed document are:

Assignor: Joseph Transportation Services, Inc.  
300 Pike Street  
Cincinnati, Ohio 45202

Assignee: Babcock & Brown Rail Funding LLC  
599 Lexington Avenue  
New York, New York 10022

Mr. Vernon A. Williams  
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A description of the railroad equipment covered by the enclosed document is:

Twenty-five (25) covered hopper railcars bearing RGCX reporting marks and road numbers 1118 through 1142, inclusive.

A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$28.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert W. Alvord", written in a cursive style.

Robert W. Alvord

RWA/anm  
Enclosures

### ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement dated as of March 28, 2002 (this "Agreement"), is between Joseph Transportation Services, Inc., a corporation organized under the laws of the State of Delaware (the "Seller") and Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Buyer").

#### WITNESSETH:

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement [JT/BBRF] dated as of March 28, 2002 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer on the date hereof.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.
2. Assignment. Effective as to each item of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest, except as reserved under Section 2.1 of the Purchase Agreement, in and to such item and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Existing Obligations, under each of the following as they relate to such item:
  - (a) the Lease;
  - (b) Exhibit A Rider 2 to Railcar Net Leasing Agreement dated September 2, 1998, between Seller (as assignee of Rio Grande) and Lessee;
  - (c) Addendum #1 to Rider 2 to Railcar Net Leasing Agreement dated February 8, 1999, between Seller (as assignee of Rio Grande) and Lessee;
  - (d) Assignment and Assumption Agreement dated as of December 18, 2001, between Rio Grande and Seller;
  - (e) Memorandum of Assignment and Assumption Agreement made and entered into as of December 18, 2001, between Rio Grande and Seller; and

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RECORDATION NO. 23837-A FILED

A&A Agr. [LONE STAR]

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**SURFACE TRANSPORTATION BOARD**

- (f) Bill of Sale dated as of December 20, 2001, by Rio Grande in favor of Seller (collectively, the "Assigned Operative Agreements").

Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date, as specified in the Purchase Agreement.

3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.

The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Assigned Operative Agreements. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the lessor under the Assigned Operative Agreements, except to the extent constituting Existing Obligations.

4. Definitions. Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: as to any one or more items of Equipment, a bill of sale in the form of Exhibit 1 hereto.

Closing Date: as to any one or more items of Equipment and related Ownership Interest, the date of the Bill of Sale with respect thereto.

Equipment: the items of equipment listed on Exhibit A hereto, together with each and every part, accessory, component and any equipment installed therein or attached thereto owned by the Seller (individually such railcars shall be referred to as an "item" or "items of Equipment").

Existing Obligations: any and all liabilities and obligations of Seller under the Ownership Interest, including the Assigned Operative Agreements, or otherwise relating to the Equipment in each such case, to the extent arising or occurring prior to the Closing Date (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by Seller prior to the Closing Date.

Lease: Railcar Net Leasing Agreement dated February 12, 1998, entered into by and between Seller (as assignee of RIO GRANDE), as lessor and Lessee, as lessee, as amended, modified or supplemented from time to time.

Lessee: Lone Star Industries, Inc.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Assigned Operative Agreements, except the Existing Obligations.

Rio Grande: Rio Grande Chemical Sales Company.

5. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

10. Recordation. The Seller and the Buyer agree to record this Agreement with the Surface Transportation Board to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease, if and only if the Lease has been recorded with the Surface Transportation Board.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

JOSEPH TRANSPORTATION SERVICES, INC.,  
as Seller

By: Paul G. Jantsch  
Name: Paul G. Jantsch  
Title: President

By: Linda M. Baughman  
Name: Linda M. Baughman  
Title: Assistant Secretary

BABCOCK & BROWN RAIL FUNDING LLC,  
as Buyer

By: \_\_\_\_\_  
Name:  
Title:

State of Ohio       )  
                              )  
County of Hamilton )

On this, the 27<sup>th</sup> day of March, 2002, before me, a Notary Public in and for said County and State, personally appeared Paul G. Jantsch, the President and Linde M. Baughman, the Assistant Secretary of Joseph Transportation Services, Inc., who acknowledged themselves to be duly authorized officers of Joseph Transportation Services, Inc., and that, as such officer, being authorized to do so, they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Barbara A. Brzezicki  
Notary Public  
My Commission Expires: February 20, 2006  
Residing in: Hamilton County



BARBARA A. BRZEZICKI  
Notary Public, State of Ohio  
My Commission Expires  
February 20, 2006


IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

JOSEPH TRANSPORTATION SERVICES, INC.,  
as Seller

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

BABCOCK & BROWN RAIL FUNDING LLC,  
as Buyer

By:  \_\_\_\_\_  
Name: Larry Littlefield  
Title: Vice President



State of New York    )  
                                  )  
County of New York )

On this, the 27th day of March, 2002, before me, a Notary Public in and for said County and State, personally appeared Larry Littlefield, the Vice President of Babcock & Brown Rail Funding LLC, who acknowledged himself to be a duly authorized officer of Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Jennifer Moreno  
Notary Public

My Commission Expires: \_\_\_\_\_

Residing in: \_\_\_\_\_

*Jennifer Moreno*  
*Notary Public, State of New York*  
*No. 01MO6036946*  
*Qualified in Queens County*  
*Commission Expires January 24, 2007*

**BILL OF SALE**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2001, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Joseph Transportation Services, Inc. ("Seller"), does hereby sell, transfer and assign to Babcock & Brown Rail Funding LLC ("Buyer") all of Seller's rights, title and interest in and to the equipment described in Exhibit A hereto (the "Equipment"), subject to the terms and conditions of the Purchase Agreement dated as of the date hereof (the "Purchase Agreement") and the Assignment and Assumption Agreement dated the date hereof, each between Seller and Buyer.

Seller represents and warrants to Buyer and its successors and assigns that at the time of delivery of the Equipment, Seller had legal title thereto and good and lawful right to sell the Equipment, and the Equipment was free and clear of all Liens (as defined in the Purchase Agreement), other than as described in Section 3.3 of the Purchase Agreement.

JOSEPH TRANSPORTATION SERVICES, INC.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Exhibit A  
(to Bill of Sale **and**  
to Assignment and  
Assumption Agreement)

## **EQUIPMENT**

Twenty-five (25) 3,260 CF two-pocket covered hopper railcars, manufactured by Trinity Industries in 1998 bearing the reporting marks as follows:

RGCX 1118-1142, inclusive.

**CERTIFICATION**

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, do hereby certify under penalty of perjury that I have compared the attached copy of an Assignment and Assumption Agreement with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: March 28, 2012      Edward M. Luria  
Edward M. Luria